

REVISED DIRECT TESTIMONY
OF
SAMUEL S. MCCLERREN

ENGINEERING DEPARTMENT
TELECOMMUNICATIONS DIVISION
ILLINOIS COMMERCE COMMISSION

DOCKET NOS. 04-0209, *et al*,
PETITIONS FOR WAIVER OF
83 ILL. ADM. CODE PARTS
730.510(a) AND 730.510(b)

DECEMBER 15, 2004

Table of Contents

Witness Experience.....	1
Overview.....	3
Code Part 730.510(a) – Operator Answer Times.....	10
Code Part 730.510(a) and Part 730(c) Staff Recommendation	16
Code Part 730.510(b) – Business and Repair Office Answer Times....	18
Code Part 730.510(b) and Part 730.510(c) Staff Recommendation.....	22
Clearwave Petition.....	28
Conclusion.....	29
Attachment 1	

1 **Witness Experience**

2

3 **Q. Please state your name and business address.**

4 A. My name is Samuel S. McClerren. My business address is 527 E. Capitol
5 Avenue, Springfield, Illinois 62701.

6

7 **Q. What is your current position with the Illinois Commerce**
8 **Commission (“Commission”)?**

9 A. I am an engineering analyst in the Engineering Department of the
10 Telecommunications Division.

11

12 **Q. Please describe your qualifications and background.**

13 A. I graduated from Eastern Illinois University with a Bachelor of Arts Degree in
14 Economics in 1976, and with a Master of Arts Degree in Economics in 1977.
15 From 1978 to 1984 I worked in retail, supervising six outlets in the St. Louis
16 area. In 1984, I joined the Missouri Public Service Commission (“MPSC”) as
17 a Management Auditor. In 1987, I left the MPSC to join the Illinois
18 Commerce Commission (“Commission”) as a Management Analyst. In my
19 role as a Management Analyst, I managed telecommunications projects of
20 Contel of Illinois, Inc., GTE North, Inc., and Illinois Bell Telephone Company.
21 In April 1996, I began working in the Telecommunications Division of the
22 Commission as an engineering analyst. I have been a case manager and
23 witness in many proceedings at the Commission, including the following:

24

25 In Docket 01-0662, SBC Illinois' 271 proceeding, I provided an overall
26 assessment of three consecutive months of commercial performance
27 results reflecting the level of service SBC Illinois provides to Illinois
28 CLECs, relative to the 14-point checklist. I also addressed remedy plan
29 issues.

30

31 I was the Commission's case manager on Docket 98-0555's
32 (SBC/Ameritech Illinois merger proceeding) Condition 30 process, which
33 led to the development of Ameritech's wholesale performance measures
34 in Illinois. I was the case manager and also provided testimony in Docket
35 01-0120, the proceeding that addressed the adequacy of Ameritech's
36 wholesale remedy plan.

37

38 I was case manager and provided testimony in Docket 01-0539, a
39 rulemaking to develop statewide wholesale service quality rules to be
40 contained in Code Part 731. I was case manager and provided testimony
41 in Docket 00-0596, the Part 730 (retail service quality) rulemaking
42 proceeding. I testified in Docket 98-0555 regarding service quality
43 matters, and in Dockets 98-0252 and 92-0448 regarding Illinois Bell's
44 alternative regulation plans.

45

Also, I have provided testimony in Dockets 96-0404, 96-0486, 96-0503, 97-0171 and 97-0300 primarily related to telecommunications carriers' performance measurement and/or operations support systems. Finally, I have provided verified statements in several negotiated and arbitrated interconnection agreement proceedings.

Overview

Q. What is the procedural background of this case?

A. Between March 5 and March 18, 2004, twenty-nine telecommunications carriers filed a Petition For Waiver of 83 Illinois Administrative Code Parts 730.510(a) and 730.510(b). One of those carriers, Delta Communications, LLC d/b/a/ Clearwave Communications, LLC, also requested a waiver from Parts 730.535, 730.540 and 730.545.

On April 15, 2004, Staff filed a Motion to Consolidate the cases, stating that:

All of the carriers allege similar facts and reasons why they cannot comply with certain sections of Part 730. Some of the similar facts shared by the carriers are that they:

- do not have operators to answer operator toll and assistance or information questions, and instead contract for that service with another vendor;
- do not maintain an automated answering machine service that records the number of calls or answering time of inbound calls;
- have a certain number of individuals who personally, and without mechanical intervention, answer subscriber inquiries;
- can/cannot answer calls to their respective business offices within the set standards; and

- face a burden in manually maintaining records regarding total number of calls received, the number of calls answered, the average answer time;

Since the facts pled by the petitioners are very similar, and the questions of law are limited to two sub-Parts of Part 730, convenience is achieved by addressing these issues in one docket, as opposed to twenty-nine dockets.

The Motion to Consolidate 29 dockets was granted by the Administrative Law Judge at a Prehearing Conference on August 26, 2004. Also at the Prehearing Conference, three dockets were added to the 29 consolidated dockets, namely, 04-0393, Reynolds Telephone Company; 04-0409, Grafton Technologies; and 04-0410, Grafton Telephone Company. In total, therefore, 32 telecommunications carriers are Petitioners to this consolidated docket.

At the August 26, 2004, Prehearing Conference, it was also decided that the 32 consolidated dockets¹ (hereinafter "Petitioners") and Staff should participate in two workshops to attempt to resolve the issues, or at least

¹ 04-0209, Alhambra-Grantfork Telephone Company; 04-0210, Woodhull Community Telephone Company; 04-0211, Diverse Communications, Inc.; 04-0212, Leaf River Telephone Company; 04-0213, New Windsor Telephone Company; 04-0214, Viola Home Telephone Company; 04-0215, Oneida Network Services, Inc.; 04-0216, Oneida Telephone Exchange; 04-0217, Montrose Mutual Telephone Company; 04-0218, Egyptian Telephone Cooperative Association, Inc.; 04-0219, Flat Rock Telephone Co-Op, Incorporated; 04-0220, Gridley Telephone Co.; 04-0221, Hamilton County Telephone Co-Op.; 04-0222, LaHarpe Telephone Company, Inc.; 04-0223, Moultrie Independent Telephone Company; 04-0224, Cass Telephone Company; 04-0225, Mid-Century Telephone Cooperative, Inc.; 04-0229, Adams Telephone Co-Operative; 04-0230, Madison Telephone Company; 04-0231, McNabb Telephone Company; 04-0235, McDonough Telephone Cooperative, Inc.; 04-0250, The Crossville Telephone Company; 04-0254, Home Telephone Co.; 04-0255, Tonica Telephone Company; 04-0278, C-R Telephone Company; 04-0279, The El Paso Telephone Company; 04-0280, Odin Telephone Exchange, Inc.; 04-0281, Yates City Telephone Company; 04-0284, Delta Communications, LLC, d/b/a Clearwave Communications; 04-0393, Reynolds Telephone Company; 04-0409, Grafton Technologies, Inc.; and 04-0410, Grafton Telephone Company. Docket 04-0729, Bergen Telephone Company and Docket 04-0730, Sharon Telephone Company filed similar waiver requests on December 1, 2004, and may also be consolidated into this docket.

for the parties to develop a better understanding of the issues to be addressed in the proceeding. The two workshops were held September 9, 2004, at the ICC's headquarters in Springfield, Illinois, and October 5, 2004, at Illinois State University in Bloomington, Illinois.

A Status Hearing was held at the ICC's headquarters in Springfield, Illinois on November 3, 2004. At this Status Hearing it was agreed that Staff would develop testimony designed to address the concerns of Staff and Petitioners, with Staff's testimony to be filed by December 3, 2004. An additional Status Hearing would be held on December 10, 2004, to determine the remaining steps in the proceeding.

On December 1, 2004, two additional Petitions for Waiver were filed with the Commission. The Petition for Waiver of Sharon Telephone Company, Docket 04-0730, and the Petition for Waiver of Bergen Telephone Company, Docket 04-0729, both seek waivers of Parts 730.510(a) and 730.510(b). On December 3, 2004, Staff filed a Motion to Consolidate these dockets into this proceeding.

Q. What is your understanding of this proceeding?

A. I understand Petitioners to be seeking relief from requirements contained in Code Part 730.510 regarding answering time. Specifically, Petitioners are seeking a waiver of Part 730.510(a)'s requirements regarding

toll/assistance and information operator answer times, as well as a waiver
~~of Part of Part~~ 730.510(b)'s requirements regarding business and repair
office answer times. Part 730.510(c) defines "average answer time" as
used in both Part 730.510(a) and Part 730.510(b) by specifying the
calculation methodology to be used for both Part 730.510(a) and Part
730.510(b). Petitioners contend that they do not have the automated
systems that would enable them to report the data in the format specified
by Code Part 730.510, or Petitioners contend that the service is provided
by another entity that may or may not be able or willing to provide them
the information they need to report relative to the requirements of Code
Part 730.510.

Q. What is Staff's understanding of Petitioner's concerns?

A. It is important to Staff to point out that Petitioners do not object to the 10-
second operator answer time standard for Part 730.510(a), nor do
Petitioners object to the 60-second business and repair office answer time
for Part 730.510(b). Though the Petitions filed in this consolidated case
do request complete waivers of Parts 730.510(a) and (b), the Petitioners'
participation in the workshops has made it clear that the standards
contained within these code parts shall remain in effect. Petitioners report
they easily meet these metrics, and Staff has no evidence to the contrary.
Staff would have been unable to accept modifications to the minimum

levels of service that any telecommunications customer should be able to expect in Illinois.

Rather, Petitioners' concern is focused on how they respond to the specific documentation and reporting requirements of Part 730 without expending large sums of money on automated systems to track and report their compliance, or how they document compliance when the service is actually provided by another entity. Staff neither envisioned nor sought in Docket 00-0596, the most recent Part 730 rulemaking, to create an unnecessary, expensive administrative burden for the Petitioners, and understands that the Petitioners believe that the application of the Rule will impose significant and unnecessary burdens on each carrier.

Q. What are Staff's concerns regarding the waiver requests?

A. As earlier stated, Staff's primary concerns are that the Petitioners meet the minimum "average answer time" standards as outlined in Parts 730.510(a) and 730.510(b). Staff is also concerned that all local exchange carriers employ procedures that allow them to adequately monitor and document their compliance with the "average answer time" standards. Part 730 was devised to impose and monitor Standards of Service on behalf of the consumer. However, if Petitioners are able to show that there are, or agree to alternative procedures, more suitable to their operations, that they can employ to adequately monitor and

document their compliance with these standards, then a waiver should be granted, subject to the requirement that the Petitioners implement such alternative procedures.

The Commission's granting of Petitioners' requests for waiver is governed by Part 730.110, as well as Section 13-513 of the Public Utilities Act. 200 ILCS 5/13-513. Under Part 730.110, waivers may be granted "in individual cases where the Commission finds that:

~~a) The~~ a) The provision from which the waiver is granted is not statutorily mandated;

~~b) No~~ b) No party will be injured by the granting of the waiver;

~~c) The~~ c) The rule from which the waiver is granted would, as applied to the particular case, be unreasonable or unnecessarily burdensome." § 730.110.

Similarly, Section 5-513 states:

A telecommunications carrier may petition for waiver of the application of a rule issues pursuant to this Act. The burden of proof in establishing the right to a waiver shall be upon the petitioner. The petition shall include a demonstration that the waiver would not harm consumers and would not impede the development or operation of a competitive market. Upon such demonstration, the Commission may waive the application of the rule, but not the application of a provision of this Act.

It is Staff's understanding that all Petitioners in this consolidated docket are smaller (having less than 35,000 access lines) and predominantly rural carriers, and that this is the circumstance that makes the application of 730.510 (a) and (b) "unnecessarily or unreasonably burdensome" in each "particular case."

Therefore, in order to satisfy the statutory requirements, each Petitioner needs to provide evidence that meets its burden of proof. It is Staff's recommendation that each Petitioner's showing should include an averment regarding its number of access or subscriber lines, its current method of providing operator services and responding to business office calls, as well as evidence that supports the cost-prohibitive and/or burdensome nature of equipment or staffing upgrades. In addition to these burden of proof issues, Staff believes each petitioner should also provide a positive affirmation that they agree with and intend to comply with the agreement described herein.

Staff notes that many facts in support of each Petitioner's burden have been set forth in verified Petitions for Waiver. Attachment 1 identifies, on a per petitioner basis, the extent to which the individual petitioners have presented facts which appear to meet their burden of proof in their initial filings. In addition, Staff learned much regarding the factual basis for Petitioners' concerns regarding each issue, as addressed below, through

the workshop process. Staff believes that these concerns, when brought before the Commission, should satisfy Petitioners' burden of proof for the granting waivers from Parts 730.510(a) and (b).

Q. What is Staff's recommendation in this proceeding?

A. Provided that Petitioners satisfy their statutory burden of proof and provide a positive affirmation that they agree with and intend to comply with the agreement described herein, Staff recommends that the Commission grant the requested waivers, on the condition that the Petitioners adopt the agreed-to modifications developed by the Petitioners and Staff in two workshops and described in more detail herein. Staff does not believe that the agreed-to modifications will result in substandard minimum levels of service to the Petitioners' customers. Staff also believes the agreed-to modifications will substantially reduce the potential expenses Petitioners will incur to document and report their compliance with Code Parts 730.510(a) and 730.510(b).

Code Part 730.510(a) – Operator Answer Times

Q. What does Code Part 730.510(a) say now about operator answer times?

A. Following is the wording contained in Part 730.510(a) regarding operator answer times:

- a) Operator Offices
- 1) Operator offices shall be staffed so that the average answer time, calculated on a monthly basis, shall not exceed ten seconds for the following types of calls:
 - A) toll and assistance; and
 - B) information.
 - 2) Whenever the average answer time for either toll and assistance calls and/or information calls, calculated on a monthly basis, exceeds ten seconds, the local exchange carrier shall take corrective action and report such action to the Commission within 15 business days after the end of the month in which the violation occurred.

Additionally, Part 730.510(c) states as follows:

- c) For purposes of this Section, "average answer time" shall be calculated by dividing the total number of call waiting seconds by the total number of reported monthly calls answered.

Q. What concerns did the Petitioners express about the wording in Code Part 730.510(a)?

A. The following paragraph is from the Alhambra-Grantfork Petition, describing its concern about the current reporting requirements under Part 730.510(a):

Petitioner does not have operators to answer operator toll and assistance or information questions and instead contracts for that service with SBC. Therefore, Petitioner does not have the ability to maintain the requested information and file the reports with the Commission as outlined in 730.510(a).²

Also addressing operator answer times, the Alhambra-Grantfork Petition states:

The lack of 730.510(a) and (b) reports will have no impact on and will not impede the development of or operation of a competitive market.

² Docket 04-0209, Petition for Waiver, Alhambra-Grantfork Telephone Company, p.3.

No party or consumer will be injured by the granting of a waiver to
Petitioner.³

The Alhambra-Grantfork petition is a representative example of the waiver
requests made by all Petitioners with regard to 730.510(a).

Q. What then is the issue regarding operator answer times?

A. Staff understands the Petitioners to be concerned about their ability to
provide the necessary documentation to support their reporting of operator
answer times. According to the representations made by Petitioners, it is
cost-prohibitive for the smaller carriers to provide their own operator
services. Accordingly, many telecommunications carriers in the state
provide operator services to their end users through a subcontracting
arrangement with an operator services provider (“OSP”), such as SBC,
Verizon, AT&T, or other OSP.

In this Alhambra-Grantfork example, the OSP is SBC. When an
Alhambra-Grantfork customer dials “0” for operator services such as toll
assistance or information, the call is routed to an SBC operator.⁴

**Q. Why does it matter that another entity may be providing operator
services for the Petitioners?**

³ Docket 04-0209, Petition for Waiver, Alhambra-Grantfork Telephone Company, p.4.

⁴ The SBC operator “brands” the call as being for Alhambra-Grantfork, reducing potential
confusion to Alhambra-Grantfork end users.

290 A. It is necessary to understand that Petitioners do not have an operator
291 services organization dedicated to their particular company. If it were true
292 that each Petitioner had its own operator function “in-house,” there would
293 be less of a problem to document and report the information required in
294 Part 730.510(a) and Part 730.510(c). The problem, from the Petitioners
295 viewpoint, becomes getting the information it would need to respond to
296 Part 730.510(a) and Part 730.510(c) from the OSP’s.

297

298 **Q. Why is getting the necessary information from the OSP’s a problem?**

299 A. It is Staff’s understanding that there are two problems facing Petitioners:

300 1) OSP’s do not track and disaggregate data on a “per geographic
301 area” or “per company basis.” OSPs can provide overall answer
302 time performance data, but OSP’s do not track answer time
303 performance relative to each geographic area or relative to each
304 Petitioner.

305 2) It is not clear that some OSP’s have the required information in
306 the necessary format, or that they would have to provide that
307 information to Petitioners even if they did.

308

309 **Q. How should the problem regarding OSP’s not having “per area” or
310 “per company” information be addressed?**

311 A. Staff recommends that the problem should be addressed in this
312 proceeding with the understanding, based on Staff’s experience and

313 expertise, that: 1) an OSP, standing ready to provide operator services on
314 a non-discriminatory basis, does not, and cannot (without undue expense
315 to the Petitioner) distinguish between callers, and 2) all incoming operator
316 calls handled by the OSP are accorded the same priority level. In other
317 words, an SBC customer dialing “0” does not get a faster operator answer
318 time than an Alhambra-Grantfork customer dialing “0,” when SBC is the
319 OSP for Alhambra-Grantfork.

320
321 Consequently, Staff proposes that the overall answer time performance for
322 the OSP be used as the response time for all carriers subcontracting their
323 operator services to that OSP.

324
325 **Q. How should the problem regarding OSP’s not having the required**
326 **information in the necessary format, or not having to provide that**
327 **information to Petitioners even if they did, be handled?**

328 A. As an initial matter, Staff notes that it is unaware of any evidence showing
329 that Petitioners are failing to provide operator answer time in less than the
330 required 10 seconds.⁵ Since the ICC does not regulate OSP’s, our ability
331 to impact their operations is minimal. An alternative to getting the
332 information directly from the OSP’s is for the Petitioners to perform their
333 own “Answer Time Study” to document and enable reporting of operator
334 answer time performance.

⁵ The ICC’s Consumer Services Division (“CSD”) is unaware of any operator answer time problems from the Petitioners.

335

336 **Q. What should be the features of an “Answer Time Study” for operator**
337 **services?**

338 A. The “Answer Time Study” relative to Part 730.510(a) and Part 730.510(c)
339 should be performed on a monthly basis, and consist of a minimum
340 number of test calls to be made by the Petitioner to the OSP. The number
341 of test calls should be determined by the relative number of Petitioner’s
342 access lines; i.e., the more access lines that Petitioner has, the more test
343 calls lines that should be made in the “Answer Time Study.”

344

345 **Q. Were you able to agree to an “Answer Time Study” for Part**
346 **730.510(a) and Part 730.510(c) in the workshops?**

347 A. Yes. The parties negotiated in good faith and came to an acceptable
348 proposal. The proposal is based, in large part, upon the factual
349 representations of the Petitioners in their initial Petitions and the workshop
350 sessions. To the extent any additional information is necessary, as
351 identified in Attachment 1, Staff believes that Petitioners will be able to
352 establish the accuracy of these representations in support of their burden
353 in this case.

354

355

Code Part 730.510(a) and Part 730(c) Staff Recommendation

Q. Given these workshop negotiations, what modifications are you recommending this Commission accept as a condition to waiver relative to Part 730.510(a) and Part 730.510(c)?

A. Assuming an adequate evidentiary record, as stated above, I recommend the following wording be used in the Commission's Order to outline the conditions upon which waiver may be granted to Petitioners relative to Part 730.510(a) and Part 730.510(c):

§ 730.510 Answering Time

a) Operator Offices

1) The average answer time, calculated on a monthly basis, shall not exceed ten seconds for the following types of calls:

A) toll and assistance; and

B) information.

Petitioner may obtain its monthly average answer time from its operator service vendor as its monthly average answer time for the purpose of compliance with the requirements of Sec-730.510(a) and for all associated recording and reporting obligations, provided that said operator service vendor calculates average answer time as it is defined in Sec-730.510(c). If the operator service vendor does not and cannot (without undue expense) record and maintain such information for the service area of the individual Petitioner, but rather records and maintains such information for all carrier service areas in the State or larger region where it provides operator services, such information shall be acceptable. The local exchange carrier, and not the operator service vendor, remains subject to the provisions of Sec-730.120.

Alternatively, Petitioner may determine the average answer time through an 'Answering Time Study' that is performed on a monthly basis. The Answering Time Study shall employ a sampling process, i.e., making test calls to the vendor or

vendors on a monthly basis. The sampling process shall consist of a minimum number of test calls made to the Petitioner's operator services vendor. The minimum number of test calls is determined by the number of Petitioner's access lines, as set forth in the following table:

<u>Access Lines</u>	<u># of Test Calls</u>
<1001	5
>1000 but <3001	10
>3000	15

Average answer time shall be calculated by dividing the sum of the call waiting seconds for each test call by the total number of test calls.

The inclusion of the above language in the Commission's Order would allow for the conditional waiver of Parts 730.510(a) and (c), in their entirety, while retaining the 10 second answer time standard. The current wording in Part 730.510(a)(2), regarding corrective action and reporting, remains in effect.

Q Does the agreed wording of the conditions outlined above require a waiver of both Part 730.510(a) and Part 730.510(c)?

A. Staff believes that, due to some wording in Part 730.510(a) and wording in Part 730.510(c), it is necessary for the ICC to grant Petitioners a waiver. Part 730.510(a) refers to operator offices being staffed at a certain level, which is not pertinent to Petitioners using an OSP. Part 730.510(c) states:

(c) For purposes of this Section, "average answer time" shall be calculated by dividing the total number of call waiting seconds by the total number of reported monthly calls answered.

Because 730.510(c) refers to dividing the "total number of call waiting seconds" by the "total number of reported monthly calls answered," Staff

believes it is necessary to grant a waiver from the requirements of Part 730.510(c). Staff does not believe it is reasonable for the Petitioners to be required to document *each and every* call received at its OSP, which would be necessary to comply with the current wording in Part 730.510(c). Based upon representations made to Staff, Staff understands that it would be infeasible and/or unduly burdensome for Petitioners to ascertain the number of calls received from each individual Petitioner's customer base to that Petitioner's OSP.

Q. What is the impact of these proposed modifications as a condition to waiver of Part 730.510(a) and Part 730.510(c)?

A. Relative to the service the Petitioners provide to their end users, there should be no impact. These changes merely enable the Petitioners to document and report, in a substantially less onerous fashion, that the answer time performance its end users receive for both operator toll/assistance and operator information is within the ten second criterion of Part 730.510(a).

Code Part 730.510(b) – Business and Repair Office Answer Times

Q. What does Code Part 730.510(b) say now about business and repair office answer times?

445 A. Following is the wording contained in Part 730.510(b) regarding business
446 and repair office answer times:

447 b) Business and Repair Offices

- 448
- 449 1) Business offices (during normal business hours) and repair
450 offices shall be staffed so that the average answer time,
451 calculated on a monthly basis, shall not exceed 60 seconds.
452 In the case where a menu driven, automated, or interactive
453 system is utilized to answer any such call, such system shall
454 provide within the first menu of options, the option of
455 transferring to a live attendant. This requirement shall apply
456 separately to business offices and repair offices, if they are
457 maintained separately.
- 458
- 459 2) Whenever the average answer time for either business offices
460 or repair offices (if maintained separately), calculated on a
461 monthly basis, exceeds 60 seconds, the local exchange
462 carrier shall take corrective action and report such action to
463 the Commission within 15 business days after the end of the
464 month in which the violation occurred.
- 465
- 466 3) Local exchange carriers shall maintain records of answer time
467 performance at their business offices and repair offices. At a
468 minimum, these records shall contain the following information
469 collected on a monthly basis:
- 470
- 471 A) Total number of calls received;
- 472
- 473 B) Total number of calls answered; and
- 474
- 475 C) Average answer time.
- 476

477 On or before March 1 of each year, each local exchange carrier shall
478 file, with the Chief Clerk of the Commission, an annual report
479 containing the above information for its business and repair office(s)
480 (separately when it maintains separate business and repair offices)
481 for each month of the preceding calendar year. This information shall
482 also be made available to the Commission when requested.

483

484 Additionally, Part 730.510(c) states as follows:

485

- 486 c) For purposes of this Section, "average answer time" shall be
487 calculated by dividing the total number of call waiting seconds by
488 the total number of reported monthly calls answered.

489

490 **Q. What concerns did the Petitioners express about the wording in**
491 **Code Part 730.510(b) and Part 730.510(c)?**

492 A. The following paragraphs are from the Alhambra-Grantfork Petition, which
493 is representative of all the petitions, describing its concern about its
494 current reporting requirement under Part 730.510(b):

495 Petitioner does not maintain an automated answering service at its
496 business office or equipment to record the number or answering
497 time of inbound calls. Petitioner maintains two full-time individuals
498 to answer telephone inquiries from subscribers. The Company has
499 a phone installed in the ladies' restroom to make sure that phone
500 calls are promptly answered. Barring an emergency at the business
501 office, Petitioner answers calls to its business office in less than 60
502 seconds and answers calls by the third ring over 95% of the time.
503 Therefore, requiring Petitioner to maintain records manually of the
504 total number of calls received and the number of calls answered as
505 well as the average answer time would be burdensome and would
506 not provide any useful information.

507
508 Petitioner, as a rural local exchange carrier, operates closely with
509 its subscribers in a small community and is responsive to
510 subscriber requests. Unlike larger carriers, when Petitioner's
511 subscribers call to Petitioner's business office, the subscribers do
512 not have to listen to a menu-driven, automated telephone
513 answering system, nor do Petitioner's subscribers have to call to an
514 800 number before personally speaking with a service
515 representative. Petitioner has two live service representatives
516 assigned during normal business hours to promptly answer
517 subscriber telephone calls to Petitioner's business office. Moreover,
518 subscribers have called on company personnel directly after hours
519 for service questions since they live in the same small community.⁶
520

521 **Q. What are Petitioners' concerns regarding business and repair office**
522 **answer times?**

⁶ Docket 04-0209, Petition for Waiver, Alhambra-Grantfork Telephone Company, pp. 3-4.

523 A. Because Petitioners do not employ automated answering services or other
524 recording equipment for inbound calls, Staff understands the Petitioners to
525 be concerned about their ability to provide the necessary documentation
526 to support their reporting of business and repair office answer times.
527 According to Petitioners, it is cost-prohibitive for the smaller carriers to
528 develop the systems necessary to document and report its answer time for
529 *each and every* business and repair office call.

530

531 **Q. How should the requirement to document and report business and**
532 **repair office calls be addressed?**

533 A. As an initial matter, Staff notes that there is no evidence to suggest that
534 Petitioners are failing to provide business and repair office answer times in
535 less than the required 60 seconds.⁷ Staff understands that, per the
536 understanding reached in workshops, the Petitioners are not seeking a
537 waiver from the 60-second standard.

538

539 An alternative to requiring the Petitioners to document and report on *each*
540 *and every* business and repair office call would be to allow the Petitioners
541 to perform their own “Answer Time Study” for business and repair office
542 calls and to report those results.

543

⁷ The ICC’s Consumer Services Division (“CSD”) is unaware of any business or repair office answer time problems from the Petitioners.

544 **Q. What should be the features of an “Answer Time Study” for business**
545 **and repair office calls?**

546 A. The “Answer Time Study” relative to Part 730.510(b) and Part 730.510(c)
547 should be performed on a monthly basis, and be based on business and
548 repair office calls received in selected periods during the month.

549

550 **Q. Were you able to agree to an “Answer Time Study” for Part**
551 **730.510(b) and 730.510(c) in the workshops?**

552 A. Yes. The parties negotiated in good faith and came to an acceptable
553 proposal. The proposal is based, in large part, upon the factual
554 representations and anecdotal evidence of the Petitioners in the workshop
555 sessions. Staff believes that Petitioners will be able to put forth the same
556 facts, as evidence, in support of their burden in this case. Specifically, the
557 Petitioners should be able to attest to their own business office practices
558 and why the Petitioner is unable to track business office and repair call
559 data, as well as why the current rule is burdensome as applied to their
560 particular case.

561

562 **Code Part 730.510(b) and Part 730.510(c) Staff Recommendation**

563

564 **Q. Given the workshop negotiations, what modifications are you**
565 **recommending this Commission accept as conditions to waiver of**
566 **Parts 730.510(b) and 730.510(c)?**

567 A. Based upon the Petitioners' representations, I recommend the following
568 wording be made effective for Petitioners relative to Part 730.510(b) and
569 730.510(c):

570 b) Business and Repair Offices

571 3) Local exchange carriers shall maintain records of answer time
572 performance.

573 Petitioner is allowed to demonstrate compliance with the answering
574 time standards of 730.510(b) and the record maintenance
575 requirements of 730.510(b)(2) in the following manner: If Petitioner
576 is unable to track business office and repair call data, either
577 electronically or through an automatic call answering system,
578 because it is cost prohibitive, unreasonable, or unnecessarily
579 burdensome, then Petitioner shall determine monthly average
580 answer time for compliance with 730.510(b) through an 'Answering
581 Time Study' that is performed on a monthly basis. The Answering
582 Time Study shall employ a sampling time process. The sampling
583 process shall document all business office and repair calls
584 pertaining to regulated services received during four separate 1-
585 hour periods in a month. The petitioner is to choose four 1-hour
586 periods that adequately represent any known variants in call
587 volume during each month. Average answer time shall be
588 calculated by dividing the sum of the call waiting seconds for each
589 call by the total number of calls recorded in the sampling process.
590 The information collected in the monthly "Answering Time Study"
591 will also be used to comply with the record maintenance
592 requirements of §730.510(b)(3).

593
594 On or before March 1 of each year, each local exchange carrier
595 shall file, with the Chief Clerk of the Commission, an annual report
596 containing the above information for its business and repair
597 office(s) (separately when it maintains separate business and repair
598 offices) for each month of the preceding calendar year. This
599 information shall also be made available to the Commission when
600 requested.

601
602 This waiver of portions of Part 730.510(b) does not impact the current
603 Parts 730.510(b)(1) regarding a 60-second standard and 730.510(b)(2)
604 regarding corrective action and reporting. The requirement in Part

605 730.510(b)(3) to report this data annually to the Chief Clerk's Office
606 remains unchanged and is reasserted here as a condition to the waiver of
607 Part 730.510(b)(3).

608

609 **Q Does the agreed wording of the conditions outlined above require a**
610 **waiver of Part 730.510(b) and Part 730.510(c)?**

611 A. Staff believes that due to the wording in Part 730.510(b) and Part
612 730.510(c), it is necessary for the ICC to grant Petitioners a waiver to
613 portions of 730.510(b) and all of Part 730.510(c). Part 730.510(b)(3)
614 refers to the total number of calls received and total number of calls
615 answered in a month. Part 730.510(c) states:

616 (c) For purposes of this Section, "average answer time" shall be
617 calculated by dividing the total number of call waiting seconds by
618 the total number of reported monthly calls answered.

619
620 Because 730.510(c) refers to dividing the "total number of call waiting
621 seconds" by the "total number of reported monthly calls answered," Staff
622 believes it is necessary to grant a waiver from the requirements of Part
623 730.510(c). Staff believes it is unreasonably burdensome and cost-
624 prohibitive for the Petitioners as smaller, rural LECs, to document *each*
625 *and every* call received at their business offices, which would be
626 necessary to comply with the current wording in Part 730.510(c).

627

628 **Q. What is the impact of these proposed modifications to Part**
629 **730.510(b) and Part 730.510(c)?**

630 A. Relative to the service the Petitioners provide to their end users, there
631 should be no impact. These changes merely enable the Petitioners to
632 document and report, in a substantially less onerous fashion, that the
633 answer time performance its end users receive for both business and
634 repair office calls is within the 60-second criterion of Part 730.510(b).

635

636 **Q. If granted, how long should the waiver of portions or all of Parts**
637 **730.510(a), (b) and (c) last?**

638 A. The granting of the conditional waiver of portions or all of Parts
639 730.510(a), (b), and (c) should last as long as Petitioners lack the
640 equipment and technology to comply with the current requirements of
641 Parts 730.510(a), (b), and (c). The conditional waiver should expire if and
642 when each Petitioner becomes able to track data in the manner
643 contemplated by the original rule. For example, if Petitioner is able (or
644 should be able) to upgrade its own equipment and services because of
645 improved or less-costly technology, the waiver will be revoked.

646

647 **Q. What additional information is needed before Staff can make a final**
648 **recommendation regarding the granting of the conditional waiver?**

649 A. As stated earlier, Staff has evaluated the verified Petitions filed in this
650 consolidated case, and believes that each of the Petitioners has asserted
651 much of the information needed in support of the applicable burden of
652 proof. Attachment 1 to this testimony is a chart which outlines several

categories of information that are supportive of the Petitioners' case for waiver: 1) the Petitioner's number of access lines, 2) the Petitioner's current means of providing operator services (both toll/assist and information), 3) the Petitioner's current means of responding to business office and repair calls, and 4) whether the Petitioner has sufficiently presented the reasons why the rule is unreasonable or unnecessarily burdensome as applied to that Petitioner.

Staff has found that many of the Petitioners should provide additional support in the fourth category listed above. As Staff has learned from both a review of the petitions and participation in the workshop sessions, Petitioners' seek to exempt themselves from the application of the current rule because, in summary, they are small carriers that do not have either the equipment or the staff to comply with the current rule. Absent a showing of burden, the response to Petitioners' plea would be a directive to purchase the equipment or employ the staff necessary to comply with the rule and the rule's intended purpose of ensuring that consumers are not subject to poor operator or maintenance service.

Therefore, Petitioners need to present evidence that such measures are unreasonable and unnecessarily burdensome, in this case, because such measures are cost-prohibitive and unnecessary given the alternative procedures put forth here as conditions to waiver. It is not sufficient to

state that compliance with the rule would “not provide any useful information.”⁸

Those Petitioners who, in Staff’s estimation, have provided a more persuasive description of the burden imposed by the rule have referenced the cost-prohibitive nature of smaller carriers complying with the rule. For example, in the Grafton Technologies petition, Petitioner states:

“9. Given the size of the Company and its small number of subscribers, it would be unreasonable and unnecessarily burdensome to require Petitioner to incur the expense of automated answering equipment or additional employees whose sole job is to monitor the employees who answer the business lines. It would also be unreasonable and unnecessarily burdensome to require Petitioner to reduce the level of personal service that it presently provides to its subscribers by requiring the installation and operation of automated answering equipment, rather than live customer service representatives.”⁹

Therefore, Staff would like to see those Petitioners who have less effectively articulated their burden present similar evidence.

In addition, Staff would like to see any evidence filed in response to this testimony contain an affirmative attestation that the conditions to waiver,

⁸ Docket 04-0209, Petition for Waiver, Alhambra-Grantfork Telephone Company, pp. 3-4.

⁹ Docket 04-0409, Petition for Waiver, Grafton Technologies, p. 3.

which Staff has represented here as “agreed,” are in fact agreed and constitute the alternative measures that Petitioners will employ to comply with the intent of the rule in monitoring and documenting average answer time for operator services and business/repair offices. Petitioners’ attestation should also include an explanation that while the Petitions filed in this case sought a complete waiver of 730.510 (a) and 730.510(b), Petitioners agree that they do not seek a waiver of the answer time standards contained in the rule, and that they understand that the agreed conditions to waiver necessitate their seeking a waiver of Part 730.510(c).

**Parts 730.535, 730.540 and 730.545, Docket 04-0284,
Delta Communications, LLC, d/b/a Clearwave Communications Petition**

Q. In Docket 04-0284, Clearwave Communications also sought waiver from Code Parts 730.535, 730.540 and 730.545. What is Staff’s position on this Docket?

A. Without addressing it further at this time, Staff believes that Clearwave Communications’ Petition, to the extent it goes beyond Part 730.510(a) and Part 730.510(b), should be separated from the other proceedings and addressed on its own merits. To that end, Staff filed a Motion to Sever Clearwave Communications’ Petition, Docket Number 04-0284, from this consolidated Docket on November 9, 2004. The Motion to Sever was granted on November 24, 2004.

722 **Conclusion**

723

724 **Q. Does this question end your testimony?**

725 **A.** Yes, it does.

Docket No. 04-0209, *et al*
Staff Exhibit 1.0
Attachment 1

Docket # 04-	Petitioner Name	Waiver To 730.510	# Access lines	Operator Services A) toll/assist B) info By contract	A) Business B) Repair	Description Of Cost / Burden
0209	Alhambra-Grantfork	a & b	1200	A) SBC B) SBC	A) and B) customer service/office staff available during regular business hours	No
0210	Woodhull	a & b	742	A) SBC B) SBC	A) and B) customer service/office staff available during regular business hours	No
0211	Diverse Communications	a & b	508	A) SBC B) SBC	A) and B) customer service/office staff available during regular business hours	No
0212	Leaf River	a & b	552	A) Verizon B) Verizon	A) and B) customer service/office staff available during regular business hours	No
0213	New Windsor	a & b	683	A) Operator Services, inc. B) Operator Services, Inc.	A) and B) customer service/office staff available during regular business hours	No
0214	Viola Home	a & b	800	A) AT&T B) AT&T	A) and B) customer service/office staff available during regular business hours	No
0215	Oneida Network Serv.	a & b	220	A) Gallatin River B) Gallatin River	A) and B) customer service/office staff available during regular business hours	No
0216	Oneida Telephone Exchange	a & b	560	A) Gallatin River B) Gallatin River	A) and B) customer service/office staff available during regular business hours	No
0217	Montrose Mutual	a & b	1711	A) Illinois Consolidated B) Illinois Consolidated	A) and B) customer service/office staff available during regular business hours	No
0218	Egyptian Tel Coop	a & b	3256	A) SBC, Verizon B) SBC, Verizon Depending on exchanges	A) and B) customer service/office staff available during regular business hours	No
0219	Flat Rock	a & b	532	A) Verizon B) Verizon	A) and B) customer service/office staff available during regular business hours	No
0220	Gridley Tel	a & b	1428	A) Verizon B) Verizon	A) and B) customer service/office staff available during regular business hours	No
0221	Hamilton County Tel	a & b	2206	A) Verizon B) Verizon	A) and B) customer service/office staff available during regular business hours	No
0222	LaHarpe Tel	a & b	1058	A) Verizon B) Verizon	A) and B) customer service/office staff available during regular business hours	No
0223	Moultrie Independent Tel	a & b	755	A) B) unidentified outside vendor	A) and B) customer service/office staff available during regular business hours	No
0224	Cass Tel	a & b	2973	A) SBC B) SBC	A) and B) customer service/office staff available during regular business hours	No
0225	Mid Century Tel Coop	a & b	4689	A) B) AT&T and SBC	A) and B) customer service/office staff available during regular business hours	No
0229	Adams Tel Coop	a & b	4504	A) Verizon B) Verizon	A) and B) customer service/office staff available during regular business hours	No
0230	Madison Tel	a & b	5400	A) AT&T B) SBC	A) and B) customer service/office staff available during regular business hours	No

Docket No. 04-0209, *et al*
Staff Exhibit 1.0
Attachment 1

0231	McNabb Tel	a & b	454	A) SBC B) SBC	A) and B) customer service/office staff available during regular business hours	No
0235	McDonough Tel Coop	a & b	4355	A) Verizon B) Verizon	A) and B) customer service/office staff available during regular business hours	No
0250	Crossville Tel	a & b	700	A) Verizon B) Verizon	A) and B) customer service/office staff available during regular business hours	No
0254	Home Tel	a & b	1050	A) SBC B) SBC	A) and B) customer service/office staff available during regular business hours	Yes
0255	Tonica Tel	a & b	560	A) SBC B) SBC	A) and B) customer service/office staff available during regular business hours	Yes
0278	C-R Tel	a & b	960	A) Verizon B) Verizon	A) & B) customer service/office staff of El Paso Tel Co. to answer calls during regular business hours	No
0279	El Paso Tel	a & b	2040	A) Verizon B) Verizon	A) and B) customer service/office staff available during regular business hours	No
0280	Odin Tel Exch	a & b	3791	A) B) AT&T, Verizon, Consolidated Com. Depending on exch	A) and B) customer service/office staff available during regular business hours	No
0281	Yates City Tel	a & b	560	Forwards 0-calls to 1-800-CALLATT, 0+ calls for operator serv forwarded to cust PIC	A) & B) customer service/office staff of Geneseo Tel Co. to answer calls during regular business hours	No
0284	Delta Comm d/b/a Clearwave Comm	a & b also 730.535., 540, 545	1000	A) Verizon B) Verizon	A) and B) customer service/office staff available during regular business hours	No
0393	Reynolds Tel	a & b	565	A) SBC B) SBC	A) and B) customer service/office staff available during regular business hours	No
0409	Grafton Technologies	a & b	1100	A) SBC Illinois B) National Directory Assistance (NDA)	A) & B) cust. service/office staff available during regular business hours ALSO B) maintains separate ph # for after hours repair	Yes
0410	Grafton Tel Co.	a & b	857	A) AT&T B) National Directory Assistance (NDA)	A) & B) cust. service/office staff available during regular business hours ALSO B) maintains separate ph # for after hours repair	Yes
0730	Bergen Telephone Company	a & b	98	A) SBC B) SBC	A) and B) customer service/office staff available during regular business hours	No
0729	Sharon Telephone Company	a & b	174	A) SBC B) SBC	A) and B) customer service/office staff available during regular business hours	No